

FEDERAL COMMUNICATIONS COMMISSION
Enforcement Bureau
Market Disputes Resolution Division
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March 25, 2022

Copies sent by E-mail

NOTICE OF FORMAL COMPLAINT

Optatus and Florence Chailla,)	
)	
Complainants,)	
)	
v.)	Proceeding Number 22-135
)	Bureau ID Number EB-22-MD-001
Verizon of Pennsylvania, LLC,)	
)	
Defendant.)	

Dr. Optatus N. Chailla
Florence R. Parker Chailla, JD
P.O. Box 1111
Stroudsburg, PA 18360
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Complainants

Curtis L. Groves
Verizon
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Counsel for Defendant

Dear Dr. Chailla, Ms. Chailla, and Mr. Groves:

On March 21, 2022, Dr. Optatus N. Chailla and Florence R. Parker Chailla, JD (collectively, the Chaillas) filed with this Commission a formal complaint (attached) against Verizon of Pennsylvania, LLC (Verizon) under section 208 of the Communications Act of 1934, as amended (the Act), 47 U.S.C. § 208.¹ This letter outlines the procedural rules relevant to this case and establishes a schedule for the proceeding. We will conduct this proceeding in accordance with the Commission's rules governing section 208 formal complaint proceedings, which are found at 47 CFR §§ 1.720-1.740.²

¹ Formal Complaint, Proceeding No. 22-135, Bureau ID Number EB-22-MD-001 (filed Mar. 21, 2022) (Complaint).

² See also *Amendment of Procedural Rules Governing Formal Complaint Proceedings Delegated to the Enforcement Bureau*, Report and Order, 33 FCC Rcd 7178 (2018) (*Rule Consolidation Order*); *Implementation of the*

Schedule for this Proceeding

The schedule for this proceeding is set forth below. All filings must comply with the Commission's formal complaint rules and with this Notice.³

1) By April 20, 2022, Verizon must file and serve either an answer to the complaint that complies with 47 CFR § 1.726 or a motion to dismiss pursuant to 47 CFR § 1.729(d). Any interrogatories posed by Verizon must be filed and served concurrently with the answer. 47 CFR § 1.730(a). Responses to any motions filed with the complaint should also be submitted with the answer. If Verizon files a motion to dismiss rather than an answer, within 5 calendar days, Commission staff will issue a letter ruling either revising the schedule set forth in paragraphs 2-6 below or suspending the schedule pending a ruling on the motion to dismiss.

2) By May 2, 2022, the Chaillas must file and serve a reply to the answer that complies with 47 CFR § 1.728. Any second request for interrogatories posed by the Chaillas must be filed and served concurrently with its reply. 47 CFR § 1.730(a).

3) A party must file and serve any opposition and objections to the opposing party's interrogatories within seven calendar days after service of the interrogatories. Any interrogatories to which no opposition or objection is raised must be answered within 20 days of service. 47 CFR § 1.730(c).

4) The parties must meet to discuss the resolution or narrowing of as many issues as possible.⁴ Such discussions should include the following matters: settlement prospects, discovery, factual and legal issues in dispute, the case schedule, and the preparation of joint statements.⁵ See 47 CFR § 1.733(b). Based on these discussions, the parties should prepare joint statements of (a) stipulated facts, disputed facts, and key legal issues; and (b) all proposals agreed to and any disputes remaining regarding the matters listed in 47 CFR § 1.733(b)(1). The joint statements must be filed by May 19, 2022. The parties may submit these two joint statements in a single document if each is separately identified therein. **We strongly encourage the parties to devote substantial effort to developing comprehensive and detailed joint statements.** See *Formal Complaints Recon Order*, 16 FCC Rcd at 5696-97.

Telecommunications Act of 1996, Amendment of Rules Governing Procedures to Be Followed when Formal Complaints Are Filed Against Common Carriers, Report and Order, 12 FCC Rcd 22497 (1997) (*Formal Complaints Order*), Order on Reconsideration, 16 FCC Rcd 5681 (2001) (*Formal Complaints Recon Order*); *Amendment of Certain of the Commission's Part I Rules of Practice and Procedure Relating to the Filing of Formal Complaints Under Section 208 of the Communications Act and Pole Attachment Complaints Under Section 224 of the Communications Act*, Order, 29 FCC Rcd 14078 (2014) (*Formal Complaints Amendment Order*). The rules governing this proceeding differ significantly from the Federal Rules of Civil Procedure. For example, the Commission requires parties to file fact-based pleadings. See *Formal Complaints Order*, 12 FCC Rcd at 54, para. 120, 47 CFR §§ 1.721(b)-(d), (r), 1.726(b). Further, section 208 proceedings "are generally resolved on a written record consisting of a complaint, answer, reply, and joint statement of stipulated facts, disputed facts and key legal issues, along with all associated evidence in the record." 47 CFR § 1.721.

³ Staff has authority under sections 0.111 and 0.311 of the Commission's rules, 47 CFR §§ 0.111, 0.311, to modify the filing deadlines and other requirements contained in the formal complaint rules as the circumstances of individual cases warrant and to the extent consistent with section 1.740 of the rules, 47 CFR § 1.740. In addition, if a filing contains a citation to material that appears on the Internet, the filing must attach a hard copy of that material. See 47 CFR § 1.721(g), (k).

⁴ Such meeting may be in person or by remote means.

⁵ Parties should attempt to resolve any discovery disputes prior to the submission of the joint statement(s).

5) After reviewing the Joint Statement, staff will contact the parties to discuss future steps in the proceeding.

6) We expect final action on the Complaint within 270 days of its filing. *See* 47 CFR § 1.740(a). The Enforcement Bureau has discretion to pause the 270-day review period where actions outside the Commission’s control (such as settlement discussions or mediation) delay Commission review of the complaint or where the Bureau determines that the issues and record are particularly complex, necessitating additional time for discovery, briefing or the submission of information requested by the Bureau. *See* 47 CFR § 1.740(b); *Rule Consolidation Order*, 33 FCC Rcd at 7186, para. 23. The Division intends to meet the 270-day deadline for final action and will be disinclined to grant requests for deadline extensions, absent a showing of good cause. Further, tight deadlines will apply to any discovery and briefing that may be permitted in this matter, and discovery and briefing must be completed by July 5, 2022. The parties and their counsel should plan their schedules accordingly. Any request for extension of the scheduled filing dates must be for good cause shown, and the parties should understand that the grant of such request will result in an adjustment to the deadline for final action based on the length of the extension.

The parties must file a public version of all written submissions in this proceeding using the Commission’s Electronic Comment Filing System (ECFS). All written submissions should (a) prominently contain the Proceeding Number and Bureau ID Number referenced above, and (b) be addressed to the Commission Secretary. A party that seeks to file both a public version and a confidential version of a submission must do so in compliance with section 1.731 of the Commission’s rules, and must file the public (redacted) version on ECFS and file the confidential (unredacted) version in hard copy form with the Office of the Commission Secretary. *See* 47 CFR § 1.731. A party asserting confidentiality for any information or materials should restrict its designations to encompass only the specific information that it asserts is confidential. Confidential designations in pleadings must be clearly identified and marked accordingly, e.g., [Begin Confidential]/[End Confidential]. Confidential filings also must clearly identify and mark each page, or portion thereof, which includes confidential designations. *See* 47 CFR § 1.731(a)(1). The parties must serve all filings via e-mail, hand-delivery, or overnight delivery, together with proof of service. *See* 47 CFR § 1.734(f). Also, please email to Commission counsel for this proceeding (EBMDRD.Division@fcc.gov) courtesy copies of all filings (both public versions and confidential versions) in a format that permits full text searching, if possible. *See* 47 U.S.C. § 154(i); 47 CFR § 1.734(e). *See Formal Complaints Amendment Order*, 29 FCC Rcd at 14081, para. 11 (requiring parties to provide hard copies of submissions to Commission staff upon request).

This proceeding is restricted for *ex parte* purposes. *See* 47 CFR Part 1, Subpart H.⁶ Further, the parties are required to retain all records that may be relevant to the complaint, including electronic records, until the Commission’s decision in this proceeding is final and no longer subject to judicial review. *See* 47 U.S.C. §§ 154(i), 208(a); 47 CFR § 42.7.

⁶ An *ex parte* presentation is a communication, written or oral, directed to the merits or outcome of a proceeding that, if written, is not served on all the parties to a proceeding, and if oral, is made without giving all the parties to the proceeding advance notice and an opportunity for them to be present. In “restricted” proceedings, *ex parte* presentations to and from Commission decision-making personnel are generally prohibited (i.e., written materials must generally be served on all parties and all parties must have an opportunity to be present at oral presentations).

We issue this letter ruling under sections 4(i), 4(j), and 208 of the Act, 47 U.S.C. §§ 154(i), 154(j), 208, sections 1.3 and 1.720-1.740 of the Commission's rules, 47 CFR §§ 1.3, 1.720-1.740, and the authority delegated in sections 0.111 and 0.311 of the Commission's rules, 47 CFR §§ 0.111, 0.311.

FEDERAL COMMUNICATIONS COMMISSION

Enforcement Bureau, Market Disputes Resolution Division

Enclosure: complaint and attachments